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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,766	05/04/2007	Paul Benjamin Buckwalter	11336/1043 (P03085US)	6154

81165 7590 05/04/2009

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EXAMINER

RECEK, JASON D

ART UNIT

PAPER NUMBER

2442

MAIL DATE

DELIVERY MODE

05/04/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/578,766	Applicant(s) BUCKWALTER, PAUL BENJAMIN	
	Examiner JASON RECEK	Art Unit 2442	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-67 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-67 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5 May 2006; 14 December 2007</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is in response to application 10/578766 filed on May 4th 2007, in which claims 1-67 are presented for examination.

Status of Claims

Claims 1-67 are pending, of which claims 1, 11, 20, 29, 34, 42, 51, 58 and 61 are in independent form.

Claims 1-67 are currently rejected.

Claims 20-28 are currently rejected under 35 U.S.C. 101.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 20-28 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 20 recites a computer system however the only elements claimed are software. Software per se is not patentable subject matter. The dependent claims 21-28 do not recite any hardware that would render the claims patentable. See MPEP 2106.01.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4, 6-8, 11-14, 16-17, 19-25, 29, 34-36, 38-40, 42-44, 46, 48-49, 41, 53-55, 57-58 and 61-67 are rejected under 35 U.S.C. 102(b) as being anticipated by Gross et al. US 5,761,430.

Regarding claim 1, Gross discloses "an operating system adapted to execute a plurality of applications" (Fig. 2b, Col. 5 ln. 37-40), "an isochronous audio application" (col. 6, ln. 25-28), "a network interface" (fig. 2b, col. 5 ln. 40-45), send and receive "stream of packets includes data packets and isochronous audio packets" (col. 5 ln. 46 - col. 6 ln. 2, col. 6 ln. 25-27), "an isochronous audio driver" (Fig. 2b, col. 5 ln. 37-40), "decodes isochronous audio packets" and "pass the data packets without change to the other applications" (col. 6 ln. 22-38).

Regarding claim 2, Gross discloses in response to "only one interrupt" (Fig. 2b - Interrupt Handler) executing applications (col. 5 ln. 45-65).

Regarding claim 3, Gross discloses applications executed sequentially (col. 6 ln. 17-25) as initiating the necessary applications upon receipt of a packet.

Regarding claim 4, Gross discloses “synchronization packets” (Fig. 3, col.3 ln. 59-61).

Regarding claim 6, Gross discloses “remove a header” that includes information, source address, etc. as packets that contain addresses and other data (col. 5 ln. 60 - col. 6 ln. 7).

Regarding claim 7, it corresponds to claim 4 and thus is rejected for similar reasons.

Regarding claim 8, Gross discloses “Ethernet packets” (Fig. 2b, col. 2 ln. 5-8).

Claims 11-14, 16-17 and 19 correspond to the dependent claims 1-4 and 6-8, thus they are rejected for similar reasons.

Regarding claim 20, some of the subject matter corresponds to claim 1 and is rejected for similar reasons. Gross also discloses transmitting packets and “generate an isochronous audio packet” (col. 3 ln. 59—col. 4 ln. 3).

Regarding claim 21, Gross discloses requesting audio data when the buffer is not full (col. 6 ln. 8-55).

Regarding claim 22, it corresponds to claim 4 and thus is rejected for similar reasons.

Regarding claim 23, Gross discloses "a compact disc" (col. 4 ln. 48-55).

Regarding claim 24, Gross discloses formatting packets (col. 6 ln. 40-50).

Regarding claim 25, Gross discloses storing and transmitting data (col. 6 ln. 30-50).

Claims 29 and 51 correspond to the system of claim 20 and thus are rejected for similar reasons.

Claims 34-36 and 39-40 correspond to claims 1-3 and 7-8, thus they are rejected for similar reasons.

Claim 38 corresponds to claim 23, thus is it rejected for similar reasons.

Claims 42-44, 46 and 48-49 correspond to claims 1-4, 7-8 and 11-14, thus they are rejected for similar reasons.

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Claims 53-55 and 57 corresponds to claims 2 and 6-8, thus they are rejected for similar reasons.

Claims 58 and 61 correspond to claim 1, thus they are rejected for similar reasons.

Claims 62-67 correspond to claims 2-4, 6-7 and 12, thus they are rejected for similar reasons.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5, 9, 15, 18, 28, 30-33, 37, 45, 47, 50, 52, 56, 59 and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gross.

Regarding claim 5, Gross does not explicitly disclose the operating system is "Windows, Unix or Linux" however these are well known in the art and yield predictable results. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Gross to use one of these operating systems. It is

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merely the combination of a known element according to its established function in order to yield a predictable result.

Regarding claim 9, Gross does not explicitly disclose “a CobraNet specification” however this is well known in the art and it yields predictable results. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Gross to comply with this specification for the purpose of sending audio streams. It is merely the combination of a known element according to its established function in order to yield a predictable result.

Claims 15, 28 and 30 correspond to claim 5, thus they are rejected for similar reasons.

Regarding claims 18, 45, 56 and 59, Gross does not explicitly disclose TCP/IP however this is well known in the art and it yields predictable results. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Gross to comply with this specification for the purpose of sending data. It is merely the combination of a known element according to its established function in order to yield a predictable result.

Claims 31-33 all recite features of the operating systems claimed in claim 5, thus they are rejected for similar reasons.

Claims 37, 50, 52 and 60 correspond to claim 9, thus they are rejected for similar reasons.

Regarding claim 47, Gross does not explicitly disclose "IEEE 802.3 standard" however this is well known in the art and it yields predictable results. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Gross to comply with this specification for the purpose of sending data. It is merely the combination of a known element according to its established function in order to yield a predictable result.

6. Claims 10, 27 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gross in view of Smyers US 2001/0001564 A1.

Regarding claim 10, Gross does not explicitly disclose "only uncompressed audio data" however this is taught by Smyers as a method for separating audio data from a stream of data as in the present invention (paragraph 27).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Gross to include the uncompressed feature of Smyers for the purpose of passing audio data. Smyers suggests that certain components only

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understand uncompressed data and thus it is necessary to only pass uncompressed data (paragraph 27).

Claims 27, 41 corresponds to claim 10 and thus is rejected for similar reasons.

7. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gross in view of Ruberg US 6,675,054 B1.

Regarding claim 26, Gross does not explicitly disclose “the resolution”, “frequency” or “number of channels” however this is taught by Ruberg as a method of supporting audio by using the resolution, frequency and channels (abstract).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Gross to include the teachings of Ruberg for the purpose of audio protocol identification. Ruberg teaches that when the audio format is known the proper processing can be applied (abstract).

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Shay et al. US 2007/0153774 A1 discloses using CobraNet specification.

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Dinallo et al. US 5,487,167 discloses a system for multimedia data streaming including a multitasking operating system (abstract).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON RECEK whose telephone number is (571)270-1975. The examiner can normally be reached on Mon - Fri 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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